

MINUTE ENTRY
FALLON, J.
April 29, 2004

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

IN RE: PROPULSID : **MDL NO. 1355**
PRODUCTS LIABILITY LITIGATION : **SECTION "L"**
: **JUDGE FALLON**
..... :

THIS DOCUMENT RELATES TO ALL CASES

A pretrial status conference was held Thursday, April 29, 2004, at 9:00 a.m. in the courtroom of Judge Eldon E. Fallon. In attendance for Plaintiffs were Leonard Davis, Charles Zimmerman, Fred Longer, Virginie Ramirez, Bob Wright, James Dugan, Julie Jacobs, J.R. Whaley, Barry Hill, Daniel Becnel, and Dawn Barrios. In attendance for the Defendants were James Irwin, Charles Preuss, Thomas Campion, and Monique Garsaud. In attendance for the United States were Tom Watson and Paul Weidenfeld, Assistant United States Attorneys for the Eastern District of Louisiana. In attendance for Blue Cross/Blue Shield was Kim West. At the conference, counsel reported to the Court on the topics set forth in Joint Report No. 30 of Plaintiffs' and Defendants' Liaison Counsel.

1. Update to Rolling Document Production and Electronic Document Production

DLC advised the Court that there is no further scheduled document production. The parties have discussed and exchanged comments regarding a Stipulation concerning the suspension of

electronic preservation as required by Pre-Trial Order No. 10. The parties advised that the proposed Stipulation would be completed by the next monthly status conference.

2. State Liaison Counsel

State Liaison Counsel advised the Court that it had nothing new to report.

3. Plaintiff Profile Forms and Authorizations

DLC advised the Court that as of April 27, 2004, they have received 3,132 PPF's, 837 are overdue, and 0 will become due in thirty days. The Defendants advised the Court that they will halt filing motions to dismiss for failure to provide a PPF during the period in which claimants may opt in to the MDL 1355 settlement.

4. Service List of Attorneys

DLC provided the Court with an updated list of attorneys in the MDL case as well as related state court cases.

5. Motion for Class Certification

The Plaintiffs reported that they have postponed filing their motion in light of the pending settlement.

6. Plaintiffs' and Defendants' Respective Requests for Production of Documents

The parties advised the Court that they have collected and organized into binders all documents which are subject to the PLC's 803(6) challenge. Both sides have prepared comments regarding the admissibility of the respective documents and shall submit the information to the Court on or before Friday, May 14, 2004. The parties may also submit a letter to the Court listing case citations in support of their respective positions.

The parties further reported that they have exchanged comments regarding a Stipulation concerning the use of electronic data preserved by Janssen Pharmaceutica sales force. The parties indicated that they shall submit a proposed Stipulation by the close of business on Friday, April 30, 2004.

7. Trust Account

The Defendants made deposits of additional settlement funds into the Court's Registry on April 23, 2004 since last month's status conference.

8. Declassified Documents

The parties advised that they had nothing new to report on this issue.

9. Mediation

The parties advised that no additional mediations have occurred since the last status conference.

10. Trial Schedule

On March 1, 2004, the DLC furnished a complete list to the PLC of all state court trials scheduled this year. The DLC advised one case is scheduled to go to trial at the end of June in Pennsylvania, but that the parties anticipate resolution of the matter prior to trial.

11. Pharmacy Indemnity Agreements

DLC advised that it continues to produce copies of all pharmacy indemnity agreements to the PLC.

12. End Game Planning Committee

On February 4, 2004, the parties announced that they had reached an agreement in principle to

resolve all federal lawsuits related to Propulsid. On February 5, 2004, the Court entered a Consent Order as to this agreement. The parties advised the Court they have continued to meet to further address various issues regarding the settlement agreement including, among other things, the Enrollment Agreement, the Claims Form, the Term Sheet, and issues related thereto.

The PLC advised the Court that the revised Term Sheet and Enrollment form will be submitted to the Court and ready to post on the Propulsid website forthwith. The Court requested that the parties submit copies of the forms to the government via Tom Watson at the United States Attorney's Office for the Eastern District of Louisiana.

The parties have exchanged drafts of the Claim Form. The Court instructed the parties to submit a proposed Claim Form to the Court on or before May 14, 2004. If the parties are unable to resolve their differences regarding the Claim Form, then the parties shall submit their respective versions to the Court on or before May 14, 2004, and the Court shall intervene.

13. Global Application of Daubert

The DLC indicated that this matter is on hold pending the outcome of the settlement program.

14. Motions to Withdraw as Counsel of Record

The parties have nothing further to report on this matter, and the matter is on hold pending the outcome of the settlement program.

15. Stipulation and Pre-trial Order Providing for Use at Trial of Depositions in State
or Federal Courts

The parties reported that they have exchanged comments regarding a Stipulation concerning the use of depositions in MDL matters.

16. CIS NED-32 Deposition

The 30(b)(6) deposition regarding the final version of CIS NED-32 has been canceled, without prejudice, to be rescheduled at a later date.

17. Motion for Summary Judgment

The PLC indicated that they have postponed filing this motion due to the pending settlement agreement.

18. Hale Motion

The Court received a Notice to Substitute the United States on behalf of Dr. William L. Booker and a Motion to Dismiss for Failure to Exhaust Administrative Claims in Civil Action No. 03-2419. The Court set the matter for hearing on this date. The Court substituted the United States on behalf of Dr. William L. Booker. Furthermore, receiving no opposition to the Motion to Dismiss, the Court GRANTED the Motion. Accordingly, the Complaint of Plaintiff Arletha Gilmore against the United States of America is hereby DISMISSED.

19. Special Master

The parties are working on a Stipulation and Order providing for the appointment of Special Master Patrick Juneau in compliance with revised Federal Rule of Civil Procedure 53. The Court requested that the parties provide Mr. Juneau with a copy of the proposed Stipulation and Order and submit the same to the Court on or before Friday, May 7, 2004.

20. Scheduling of Telephone Status Conference and Next Pretrial Status Conference

A telephone status conference shall be held on Tuesday, May 18, 2004, at 1:30 p.m. to follow-up on the various materials that the parties will have submitted to the Court by that time. Counsel shall

provide a list of participants and their phone numbers. The Court shall initiate the call.

The next pretrial status conference will be held on Friday, June 11, 2004, at 9:00 a.m.